

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 6702 of 1987

For Approval and Signature:

Hon'ble MR.JUSTICE S.K.KESHOTE

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO
2. To be referred to the Reporter or not? : NO
3. Whether Their Lordships wish to see the fair copy of the judgement? : NO
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO
5. Whether it is to be circulated to the Civil Judge? : NO

DILIPKUMAR N SHAH

Versus

UNION OF INDIA

Appearance:

MR SUNIL SUBRAHMANYAM for Petitioner

None present for Respondents

CORAM : MR.JUSTICE S.K.KESHOTE

Date of decision: 02/11/1999

ORAL JUDGEMENT

1. By this petition, the petitioner is praying for direction to the respondent- Telephone Department to implement its own order, annexure 'H' to this petition, granting rebate to the petitioner. The petitioner further prayed for direction to the respondents to refund to the petitioner an amount of Rs.215/- being the amount of fees recovered from the petitioner and further to direct the respondent to refund the amount of

reconnection charges recovered by the Department illegally, which the petitioner was obliged to incur because of the bureaucratic attitude on the part of the Department.

2. Learned counsel for the petitioner failed to satisfy the court how the claim of the petitioner is legally sustainable. In the facts of this case, if the respondents have not accepted the claim of the petitioner on the basis of the documentary evidence produced by the petitioner it can not be said that they have acted arbitrarily or perversely. It is not out of context to state that earlier the petitioner filed the petition being special civil application No.5451 of 1987 for the same relief but it has been withdrawn. On the record of this special civil application, the petitioner has not produced the order of this court passed in the earlier special civil application. Whether the petitioner has been granted leave to file fresh petition is also not borne out from the record. Otherwise also, these are the disputed questions of facts which this court can not decide in the petition under Article 226 of the Constitution. The petitioner should have taken appropriate legal remedy where the questions of facts could have been gone into but the petitioner has chosen to file this petition and on the basis of the material produced by the petitioner, if his claim is not accepted for rebate, refund etc. no interference can be made.

3. In the result, this special civil application fails and the same is dismissed. Rule discharged. Interim relief, if any, granted by this court stands vacated. No order as to costs.

zgs/-